

ESTTA Tracking number: **ESTTA417682**Filing date: **07/01/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Color Image Apparel, Inc.		
Entity	Corporation	Citizenship	California
Address	6670 Flotilla Street Commerce, CA 90040 UNITED STATES		

Attorney information	Lindsay Hulley Tressler LLP 18100 Von Karman Ave. Suite 800 Irvine, CA 92612 UNITED STATES octmdocket@tresslerllp.com Phone:949-336-1200
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Applicant Information

Application No	85166228	Publication date	06/28/2011
Opposition Filing Date	07/01/2011	Opposition Period Ends	07/28/2011
Applicant	DownEast Outfitters, Inc. 375 W. Hope Avenue Salt Lake City, UT 84115 UNITED STATES		

Goods/Services Affected by Opposition


Class 025. All goods and services in the class are opposed, namely: Belts; Blouses; Coats; Denims; Dresses; Pants; Shirts; Shoes; Shorts; Skirts; Sweaters; Swimsuits
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2668441	Application Date	09/04/2001
Registration Date	12/31/2002	Foreign Priority Date	NONE
Word Mark	BELLA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Garments, namely cotton T-shirts and Tops

U.S. Registration No.	2895709	Application Date	09/28/2003
Registration Date	10/19/2004	Foreign Priority Date	NONE
Word Mark	BELLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 [MEN'S,] WOMEN'S AND CHILDREN'S CLOTHING, namely, [JEANS,] DRESSES, SKIRTS, [MINISKIRTS,] SHORTS, PANTS, [SLACKS, TROUSERS, SUITS, PANTSUITS,] JACKETS, SWEATERS, [CARDIGANS, PULLOVERS, COATS, SPORT COATS, BLOUSES, VESTS, BLAZERS, OVERALLS,] SWEATSHIRTS, SWEATPANTS, [SWEATSHORTS,] SWEATSUITS, SHIRTS, [POLO SHIRTS,] KNIT SHIRTS, SPORT SHIRTS, TEE-SHIRTS, COTTON SHIRTS, TOPS, TANK-TOPS, [HALTER TOPS,] KNIT TOPS, [WOVEN TOPS, BODYSUITS,] CAMISOLES [PAJAMAS, JUMPSUITS, SWIM SUITS, SWIMWEAR, SOCKS, GLOVES; CLOTHING ACCESSORIES, namely, BELTS, SCARVES, HATS, CAPS AND VISORS; FOOTWEAR, namely, LOAFERS, ESPADRILLES, SANDALS, THONGS, MULES, PUMPS, ATHLETIC SHOES, SLIPPERS, BOOTS, BEACH FOOTWEAR]		


U.S. Registration No.	3519794	Application Date	03/17/2008
Registration Date	10/21/2008	Foreign Priority Date	NONE
Word Mark	BELLA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts, and jackets

U.S. Registration No.	2803696	Application Date	07/19/2002
Registration Date	01/06/2004	Foreign Priority Date	NONE
Word Mark	BELLA CHIC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2002/07/01 First Use In Commerce: 2003/01/01 Clothing, namely, shirts, pants, undergarments and baby clothes, namely, hats, body suits, t-shirts, pants and socks		

U.S. Registration No.	2806739	Application Date	03/06/2003
Registration Date	01/20/2004	Foreign Priority Date	NONE
Word Mark	BELLA-CHIC TEASE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2002/07/01 First Use In Commerce: 2002/12/01 Women's and children's shirts, hats, pants, pajamas, undergarments, socks and layettes		


U.S. Registration No.	3158111	Application Date	11/14/2005
Registration Date	10/17/2006	Foreign Priority Date	NONE
Word Mark	BELLA GIRL		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2002/08/07 First Use In Commerce: 2002/08/07 girls clothing, namely knit tops and bottoms, fleece tops and bottoms, basic tops and bottoms, tank tops, short sleeve tops and shirts, long sleeve tops and shirts, spaghetti strap tank tops

U.S. Registration No.	3250727	Application Date	11/14/2005
Registration Date	06/12/2007	Foreign Priority Date	NONE
Word Mark	BELLA BABY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2005/09/00 First Use In Commerce: 2005/09/00 clothing for newborns and infants, namely knit tops and bottoms, fleece tops and bottoms, basic tops and bottoms, one-piece garments with feet, hats, cloth bibs, tank tops, short-sleeve shirts and tops, long-sleeve shirts and tops, and spaghetti strap tank tops		

U.S. Registration No.	3293659	Application Date	11/29/2005
Registration Date	09/18/2007	Foreign Priority Date	NONE
Word Mark	BELLA BABY		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2005/09/00 First Use In Commerce: 2005/09/00 clothing for newborns and infants, namely knit tops and bottoms, fleece tops and bottoms, basic tops and bottoms, one-piece garments with feet, hats, cloth bibs, tank tops, short-sleeve shirts and tops, long-sleeve shirts and tops, and spaghetti strap tank tops

U.S. Application No.	77683559	Application Date	03/04/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA LINGERIE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets		

U.S. Application No.	77683548	Application Date	03/04/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA SOL		

Design Mark	BELLA SOL
Description of Mark	NONE
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets

U.S. Application No.	77683328	Application Date	03/04/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA LIFESTYLE		
Design Mark	BELLA LIFESTYLE		
Description of Mark	NONE		
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets		

U.S. Application No.	77683300	Application Date	03/04/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA HONEY		

Design Mark	BELLA HONEY
Description of Mark	NONE
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets

U.S. Application No.	77683276	Application Date	03/04/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA BRAZIL		
Design Mark	BELLA BRAZIL		
Description of Mark	NONE		
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets		

U.S. Application No.	77683191	Application Date	03/04/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA BODYWEAR		

Design Mark	BELLA BODYWEAR
Description of Mark	NONE
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets

U.S. Application No.	77683163	Application Date	03/04/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA BASICS		
Design Mark	BELLA BASICS		
Description of Mark	NONE		
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets		

U.S. Application No.	77683552	Application Date	03/04/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA STRETCH		

Design Mark	BELLA STRETCH
Description of Mark	NONE
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets

U.S. Application No.	77882072	Application Date	11/30/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ECO BELLA		
Design Mark	ECO BELLA		
Description of Mark	NONE		
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets		

U.S. Application No.	77743487	Application Date	05/22/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA SPORT		

Design Mark	BELLA SPORT
Description of Mark	NONE
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets

U.S. Application No.	77736270	Application Date	05/13/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA COUTURE		
Design Mark	BELLA COUTURE		
Description of Mark	NONE		
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets		

U.S. Application No.	77728417	Application Date	05/04/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA FASHION		

Design Mark	BELLA FASHION
Description of Mark	NONE
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets

U.S. Application No.	77727522	Application Date	05/01/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA CLASSIC		
Design Mark	BELLA CLASSIC		
Description of Mark	NONE		
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets		

U.S. Application No.	77726561	Application Date	04/30/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA LOUNGEWEAR		

Design Mark	BELLA LOUNGEWEAR
Description of Mark	NONE
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets


U.S. Application No.	77726551	Application Date	04/30/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA LUXE		
Design Mark	BELLA LUXE		
Description of Mark	NONE		
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets		

U.S. Registration No.	3967706	Application Date	04/21/2010
Registration Date	05/24/2011	Foreign Priority Date	NONE
Word Mark	BELLA LUXX		

Design Mark	BELLA LUXX
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2011/04/06 First Use In Commerce: 2011/04/06 Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, shirts, dresses

U.S. Application No.	77962652	Application Date	03/18/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LITTLE BELLA		
Design Mark	LITTLE BELLA		
Description of Mark	NONE		
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts, and jackets		

U.S. Application No.	77926234	Application Date	02/02/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA ORGANIC		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, skirts, dresses, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts and jackets, all of the aforesaid goods containing organic materials

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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Lindsay J. Hulley/
Name	Lindsay J. Hulley
Date	07/01/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No.: 85/166,228
For the Trademark: BELLA BIRD
Published in the Official Gazette on June 28, 2011

Color Image Apparel, Inc., a California
corporation,

Opposer,

v.

DownEast Outfitters, Inc., a Utah
corporation,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

Opposer, Color Image Apparel, Inc, a California corporation having a place of business at 6670 Flotilla Street, Commerce, California 90040 (hereinafter "Opposer") believes that it will be damaged by registration of the mark BELLA BIRD shown in Application Serial No. 85/166,228, as published in the Official Gazette on June 28, 2011 and hereby partially opposes the same.

As grounds for the Opposition, it is alleged that:

1. Opposer is now and for many years past has been engaged in the manufacture, marketing and sale of apparel for men, women and children.
2. For more than eleven years and since at least as early as January 1, 2000, Opposer adopted and has used the trademark BELLA on and in connection with its goods.
3. For more than eleven years, Opposer has drawn upon the goodwill and public recognition of its BELLA mark by adopting and using this mark to signify its high quality goods.

4. Opposer's BELLA mark has been conspicuously applied to Opposer's goods, and said goods so marked have been extensively distributed, advertised, promoted and sold in interstate commerce in the United States.

5. For more than eleven years, Opposer has widely and extensively advertised and promoted its goods such that the public and trade recognize that these products emanate from one source, i.e., Color Image Apparel, Inc.

6. By virtue of Opposer's extensive advertising, promotion, and sales of its goods under its BELLA mark, the public and trade have come to rely upon Opposer's BELLA mark to identify Opposer's superior products and distinguish them from the products of others. The BELLA mark has come to represent an extremely valuable goodwill belonging exclusively to Opposer.

7. Opposer has long maintained registrations of its BELLA mark in the United States Patent and Trademark Office for its goods. Among said registrations owned by Opposer are:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class</u>
BELLA	2,668,441	December 31, 2002	25
BELLA	2,895,709	October 19, 2004	25
BELLA	3,519,794	October 21, 2008	25

8. In addition, Opposer has registered, applied to register or been assigned numerous other marks for clothing incorporating BELLA, so that Opposer is the owner of a well-established family of BELLA marks. Among such marks owned by Opposer are:

<u>Mark</u>	<u>Appl. No. or Reg. Date</u>	<u>Appl. No. or Reg. No.</u>	<u>Class</u>
BELLA CHIC	2,803,696	January 6, 2004	25
BELLA-CHIC TEASE	2,806,739	January 20, 2004	25
BELLA GIRL	3,158,111	October 17, 2006	25
BELLA BABY	3,250,727	June 12, 2007	25

BELLA BABY	3,293,659	September 18, 2007	25
BELLA LINGERIE	77/683,559	March 4, 2009	25
BELLA SOL	77/683,548	March 4, 2009	25
BELLA LIFESTYLE	77/683,328	March 4, 2009	25
BELLA HONEY	77/683,300	March 4, 2009	25
BELLA BRAZIL	77/683,276	March 4, 2009	25
BELLA BODYWEAR	77/683,191	March 4, 2009	25
BELLA BASICS	77/683,163	March 4, 2009	25
BELLA STRETCH	77/683,552	March 4, 2009	25
ECO BELLA	77/882,072	November 30, 2009	25
BELLA SPORT	77/743,487	May 22, 2009	25
BELLA COUTURE	77/736,270	May 13, 2009	25
BELLA FASHION	77/728,417	May 4, 2009	25
BELLA CLASSIC	77/727,522	May 1, 2009	25
BELLA LOUNGEWEAR	77/726,561	April 30, 2009	25
BELLA LUXE	77/726,551	April 30, 2009	25
BELLA LUXX	85/019,598	April 21, 2010	25
LITTLE BELLA	77/962,652	March 18, 2010	25
BELLA ORGANIC	77/926,234	February 2, 2010	25

9. Said registrations and applications are valid and subsisting, and are owned by Opposer together with the business and goodwill connected therewith.

10. Opposer has also filed and obtained trademark registrations throughout various foreign countries that correspond to its U.S. trademark registrations identified above.

11. By the application herein opposed, Applicant seeks to register the designation BELLA BIRD as a trademark in International Class 25 for: Belts; Blouses, Coats; Denims; Dresses; Pants; Shirts; Shoes; Shorts; Skirts; Sweaters; Swimsuits.

12. On information and belief, Applicant uses, or seeks to use, the designation BELLA BIRD on goods that are, or will be, marketed, advertised, promoted, and sold through identical or similar channels of trade, and ultimately to the same kinds of customers as Opposer's goods are marketed, promoted, and sold under its family of BELLA marks.

13. Because of the fame of Opposer's BELLA marks, consumers and the trade have to come to associate the word "BELLA" with Opposer and Opposer's goods such that Applicant's use of the designation BELLA BIRD on substantially similar goods is likely to create the erroneous impression that Applicant's goods originate with Opposer or are licensed, sponsored or approved by Opposer or are in some way endorsed by or connected with Opposer's business of selling goods under its BELLA marks.

14. Applicant's designation BELLA BIRD is confusingly similar to the marks owned by Opposer, therefore, denying to Opposer the benefits of its marks in excluding confusingly similar uses.

15. Thus, when applied to Applicant's goods, the designation BELLA BIRD is likely to cause confusion, to cause mistake, and to deceive consumers as to the origin, sponsorship and approval of Applicant's goods with consequent injury to Opposer, to the public and to the trade.

16. Opposer's BELLA marks are not only well-known, but are famous as defined under Section 43(c) of the Trademark Act, 15 U.S.C. §1125(c). Thus, Applicant's registration and use of the designation BELLA BIRD is likely to dilute the distinctive quality of Opposer's famous, registered BELLA marks.

17. Opposer will be damaged by the registration sought herein by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant's designation sought to be registered, and will give color of exclusive statutory rights in Applicant in violation and derogation of the prior and superior rights of Opposer.

18. The Trademark Trial and Appeal Board has authority under 15 U.S.C. § 1068 to refuse to register the opposed mark in part, in International Class 25.

WHEREFORE, Opposer believes and avers that it will be damaged by registration of Applicant's mark and prays that Application Serial No. 85/166,228 be denied in part, in International Class 25.

Please recognize Lindsay J. Hulley and the law firm of Tressler LLP, as attorneys for Opposer in this proceeding and address all communications to Lindsay J. Hulley at the address below.

This Notice of Opposition is being submitted electronically through ESTTA. The required fee is authorized to be charged against the Deposit Account of the Attorney for Opposer.

Date: July 1, 2011

Respectfully submitted,

/Lindsay J. Hulley/
Lindsay J. Hulley
Tressler, LLP
18100 Von Karman, Suite 800
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(949) 336-1200
(949) 752-0645
Attorneys for Opposer,
COLOR IMAGE APPAREL, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is the attorney for Opposer Color Image Apparel, Inc., in the above-captioned Opposition proceeding and that on the date which appears below, she caused a copy of the foregoing **NOTICE OF OPPOSITION** to be served on the following by first class mail service:

Applicant:

DownEast Outfitters, Inc.
375 West Hope Avenue
Salt Lake City, Utah 84115

Counsel for Applicant:

Casey W. Jones
Strong & Hanni
3 Triad Center, Suite 500
Salt Lake City, Utah 84180-1125

Dated: Irvine, California
July 1, 2011

/Lindsay J. Hulley/
Lindsay J. Hulley